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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,350	12/23/2003	Mark Lowell	77297.006010	4714
33717	7590	10/05/2006	EXAMINER	
GREENBERG TRAUIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			KARKHANIS, AASHISH	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

117

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/743,350		LOWELL ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Aashish Karkhanis		3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/03,6/04,7/04</u> .                                         | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 21 –22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Applicant discloses a method for determining if any active paylines contain a set of winning indicia combinations, including defining at least one payline, wherein each payline is defined by a set of symbol locations, defining a set of indicia combinations as winning indicia combinations, wherein a packed win number is calculated for each of the winning indicia combinations, calculating a packedline value for each payline based on the indicia displayed in the symbol locations of each payline; iteratively comparing each packedline value to the packed win numbers and, when a match occurs, storing the results in a result array, reviewing the result array to determine the match with the highest value, and determining a prize to be awarded to a player based on the match with the highest value.

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. Office personnel have the burden to establish a prima facie case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or

Art Unit: 3714

does not produce a useful result. A simple determination with no action does not produce a tangible result as required under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 2, 6, 11 and 18 – 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Franchi (U.S. Patent 5,770,533).

Regarding Claims 1 – 2, Franchi discloses a method for playing an electronic pull tab game, including generating a deck of pull tabs, each of the pull tabs having a serial number associated therewith, wherein at least one of the pull tabs is designated as a winning tab (col. 6, lins. 55 – 57; where lottery elements may inherently take a number of electronic or paper forms such as electronic pulltabs as is well known and established in the art, and a lottery inherently has at least one element designated as a winning element), generating a deal of pull tabs by shuffling the deck of pull tabs using a linear congruential algorithm designed not to repeat until all of the pull tabs have been selected to select from the set of pull tab serial numbers (col. 8, lins. 35 – 38; where a lottery inherently shuffles winning elements with non-winning elements in a near randomized fashion, which may include using a number of specific algorithms as is well known and established in the art), and making the deal of pull tabs available to players

Art Unit: 3714

(col. 8, lins. 35 – 58; where a player receives a lottery game element pull tab as a record of playing in a lottery as is well known and established in the art).

Regarding Claim 6, Franchi discloses a method including selecting a plurality of indicia to be associated with a deal, wherein at least one combination of indicia serves as a winning combination (col. 8, lins. 35 – 38; where a slot machine game played concurrently with a lottery includes a single deal for both a slot and lottery game, and where a slot machine game includes a plurality of indicia associated with winning combinations as is well known in the art).

Regarding Claim 11, Franchi discloses a gaming system network including a master processing unit, the master processing unit operative to distribute game plays from a finite pool of game plays, a memory device coupled to the master processing unit (col. 6, lins. 53 – 64), the memory device operative to store at least one finite pool of game plays, each finite pool containing a predefined number of winning and losing play records, wherein each game play record contains a serial number, a win determiner, for correlating a serial number with a list of winning serial numbers (col. 6, lins. 53 – 64; where a lottery inherently has individually identifiable elements for determining a win), a communication interface coupled to the master processing unit; a plurality of slave terminals, each slave terminal coupled to the communication interface to receive game play records in response to a game play request received from a player, a plurality of player-controlled selection devices, each player-controlled selection device coupled to a slave terminal and operative to transmit game play requests from the player to the master processing unit and a plurality of output devices, each output device coupled to

a slave terminal and operative to communicate to the player the receipt of a winning or losing play and the amount won (col. 6, lins. 53 – 64).

Regarding Claim 18, Franchi discloses a method for playing an electronic pull tab game including creating a deal comprised of a plurality of game outcomes, wherein each of the game outcomes has an associated ticket index, creating a Remap Table, for mapping each ticket index in the deal to a ticket number (col. 6, lins. 53 – 64; where a lottery inherently has individually identifiable elements for determining a win), creating an indicia table, wherein the indicia table is comprised of a plurality of indicia, and wherein an indicia index is associated with each of the indicia, defining at least one reel, wherein each reel is comprised of a plurality of indicia locations, and wherein an indicia index from the indicia table is assigned to each of the indicia locations (col. 7, lins. 55 – 67; where a slot machine reel game inherently has a table of indicia representing game symbols on reels and an index for tracking the position of the reel in order to determine winning combinations that qualify for awards), defining a display area, (col. 8, lins. 14 – 19) wherein the display area is comprised of at least one pay line; defining an array of symbol locations, wherein the symbol location array is defined by the number of paylines in the display area and the number of reels; assigning a symbol location index to each of the symbol locations in the symbol location array (col. 7, lins. 55 – 67; where a slot machine reel game inherently has a table of indicia representing game symbols on reels and an index for tracking the position of the reel in order to determine winning combinations that qualify for awards), receiving a game outcome request from a player, providing at least one game outcome to a player in response to the player request,

Art Unit: 3714

determining the ticket number corresponding to the game outcome provided to the player, calculating an index into each reel based on the determined ticket number, assigning indicia to each symbol location in the symbol location array based on the calculated reel indices, and determining if any of the paylines contains a winning set of indicia (col. 8, lins. 35 – 38).

Regarding Claims 19 – 20, Franchi discloses a method wherein the game outcome request received from the player includes an indication of the number of paylines to be treated as active paylines, further comprising determining if any of the paylines containing a winning set of indicia is an active payline (col. 7, lins. 55 – 67; where paylines and varying the number of active paylines are inherent and notoriously well known and established in the reel game art).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3 – 5, 7 – 10 and 12 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franchi (U.S. Patent 5,770,533).

Regarding Claims 3 – 5, Franchi discloses a method of playing a lotter but does not disclose dividing the set of winning pull tabs into a plurality of subsets, wherein each of the plurality of subsets has a different number of winning pull tabs and assigning at least one win amount to the subsets. However, it would have been obvious to one of

ordinary skill in the art at the time of the invention to have modified the lottery game over network system as disclosed by Franchi with a plurality of subsets with different numbers of winning pull tabs in order to create customized gaming environments within a larger gaming system.

Regarding Claims 7 – 8, Franchi discloses a method including selecting a plurality of indicia to be associated with a deal, wherein at least one combination of indicia serves as a winning combination (col. 8, lins. 35 – 38; where a slot machine game played concurrently with a lottery includes a single deal for both a slot and lottery game, and where a slot machine game includes a plurality of indicia associated with winning combinations as is well known in the art), but does not disclose a method including assigning at least one winning indicia combination to each of the plurality of subsets. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lottery game over network system as disclosed by Franchi with a plurality of subsets with different numbers of winning pull tabs in order to create customized gaming environments within a larger gaming system.

Regarding Claims 9 – 10, Franchi discloses a method including selecting a price players should be charged for a pull tab, and associating a win value with each of the plurality of subsets and making at least the pull tab price and win values known to players (col. 6, lins. 53 – 64; where lottery tickets are purchased and a win value is associated with each ticket as is well known and established in the art).

Regarding Claim 12, Franchi discloses a gaming system network with a win determiner, but does not disclose a win determiner that utilizes a look-up table to



Art Unit: 3714

correlate the serial number with a list of winning serial numbers. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lottery system with generic win determiner of Franchi with a specific win determiner using a lookup table in order to provide a more efficient method of determining wins.

Regarding Claim 13, Franchi discloses a gaming system network wherein the information communicated to the player via the output device is determined, but does not disclose using each digit of a multi-based numeric representation of the serial number as an index into a game outcome representation. However, it would have been obvious to one of ordinary skill in the art at time of the invention to have modified the lottery system with generic indexing of Franchi with specific indexing in order to provide a more efficient method of determining wins.

Regarding Claims 14 – 15, Franchi discloses a gaming system network wherein the game outcome representation is a slot-style game that allows multiple paylines to be played (col. 7, lins. 55 – 67; where paylines and varying the number of active paylines are inherent and notoriously well known and established in the reel game art).

Regarding Claims 16 – 17, Franchi discloses a gaming system network wherein the game outcome representation is a pull-tab style game, wherein the pull-tab game allows multiple pull-tab windows to be played (col. 7, lins. 55 – 67; where paylines are inherent and notoriously well known and established in the reel game art).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,398,932: Network lottery.

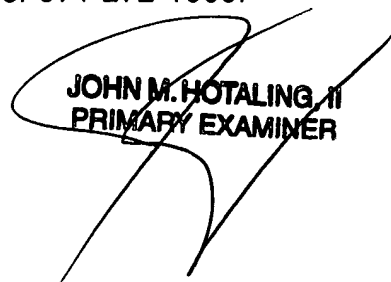
U.S. Patent 5,674,128: Network lottery.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

  
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PRIMARY EXAMINER